

Attorney's Docket No. 2537 (203-2155)

**COMBINED DECLARATION AND POWER OF ATTORNEY**(ORIGINAL, DESIGN, NATIONAL STAGE OR PCT, SUPPLEMENTAL,  
DIVISIONAL, CONTINUATION OR CIP)

NOV 04 2002

As a below named inventor, I hereby declare that:

**TYPE OF DECLARATION**

This declaration is of the following type: (check one applicable item below)

- ☒ original  
☐ design  
☐ supplemental

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application do not check next item; check appropriate one of last three items.

- ☐ national stage of PCT

NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.

- ☐ divisional  
☐ continuation  
☐ continuation-in-part (CIP)

**INVENTORSHIP IDENTIFICATION**

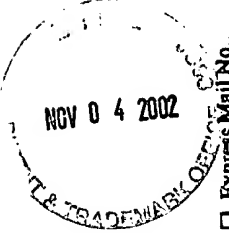
WARNING: If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TITLE OF INVENTION**APPARATUS FOR THERMAL TREATMENT OF AN INTERVENEURAL DISC

(Declaration and Power of Attorney [1-1] - page 1 of 5)

R.F.  
Arthur, 1 2002



# SPECIFICATION IDENTIFICATION

the specification of which: *(complete (a), (b) or (c))*

(a) ☐ is attached hereto.

(b) ☒ was filed on December 18, 2000 as ☒ Serial No. 09/39,428 or ☐ Express Mail No.            as Serial No. not yet known and was amended on            *(if applicable)*.

## NOTE:

Applicants should enter the original papers are deposited with the PTO which contain your entire application as not recorded a filing date by being referred to in the declaration. Accordingly, the examination involved the filing with the application papers as, in the case of a supplemental declaration, the three amendments claiming matter not encompassed in the original statement of invention or claims. See 37 C.F.R. 1.61

(c) ☐ was described and claimed in PCT International Application No.            filed on            and as amended under PCT Article 19 on            *(if any)*.

## ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. §1.56.

☐ and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

☐ in compliance with this duty there is attached an information disclosure statement in accordance with 37 C.F.R. 1.98.

## PRIORITY CLAIM (35 U.S.C. §119)(a)-(d)

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

*(complete (d) or (e))*

(d) ☒ no such applications have been filed.

(e) ☐ such applications have been filed as follows.

NOTE: Where item (e) is entered above and the International Application which designated the U.S. shall claim priority claim (e), enter the details below under the priority claim.

*For 18 October 1 2001*

NOV

2002

**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION  
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(34 U.S.C. §119(e))**

I hereby claim the benefit under Title 35, United States Code, §119(c) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

FILING DATE

60/171,822

December 21, 1999

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

NOTE: If the application filed more than 12 months from the filing date of this application is a PCT filing, indicating the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete ADDITIONAL PAGES TO COLLEGE OF PATENT AND TRADEMARK OFFICE FOR ATTORNEY FOR DIVISIONAL, CONTINUATION OR CIP APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. §170.

**POWER OF ATTORNEY**

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

DAVID M. CARTER, Reg. No. 30,949; PETER DELUCA, Reg. No. 32,978; RAYMOND E. PARRILLA, Reg. No. 34,816; JOSEPH W. SCHMIDT, Reg. No. 36,920; JEFFREY S. STEIN, Reg. No. 37,063; RUSSELL H. KASSENER, Reg. No. 36,183; CHRISTOPHER G. TRAINOR, Reg. No. 39,517; GEORGE LIKOURIZOS, Reg. No. 40,067; EDWARD C. BRACCHER, Reg. No. 41,189; FRANCESCO SARDONE, Reg. No. 42,918; JUDY NAARAT, Reg. No. 39,311; LEE GROSSKOPF, Reg. No. 43,900; and DANA A. BRUSKIN, Reg. No. 43,717, each of them of CARTER, DELUCA, PARRILLA & SCHMIDT, LLP, 465 Broad Harbor Road, Melville, New York 11767; and DAVID KORTA, Reg. No. 30,908; DOUGLAS E. DENNINGER, Reg. No. 31,752; PAUL B. ADDETT, Reg. No. 26,439; and MARK BARNER, Reg. No. 34,159, each of them of UNITED STATES SURGICAL, A DIVISION OF TYCO HEALTHCARE GROUP LP, 150 Glover Avenue, Norwalk, Connecticut 06856.

Re October 1, 2002

DIRECT TELEPHONE CALLS TO:  
(Name and telephone number)

(203) 845-4603

SEND CORRESPONDENCE TO:

Douglas E. Deuninger, Esq.  
United States Surgical,  
a Division of Tyco Healthcare Group LP  
150 Glover Avenue  
Norwalk, Connecticut 06856



#### DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

#### SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name as it should appear on the filing receipt and all other documents.

Full name of sole or first inventor: Philip Michael Finch  
 Inventor's signature: [Signature]  
 Date: 4 October 2002 Country of Citizenship Australia  
 Residence: 18 Hardy Street  
 Post Office Address: South Perth West Australia 6151  
 Full name of second joint inventor, if any: Eric R. Cosman  
 Inventor's signature: \_\_\_\_\_ Country of Citizenship USA  
 Date: \_\_\_\_\_  
 Residence: 872 Concord Avenue  
 Post Office Address: Belmont, MA 02478

**CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING  
ADDED PAGE(S) WHICH FORM A PART OF THIS DECLARATION**

- ☐ Signature for subsequent joint inventors.  
Number of pages added \_\_\_\_
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or  
incapacitated inventor.  
Number of pages added \_\_\_\_
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under  
37 C.F.R. §1.47.  
Number of pages added \_\_\_\_ \*\*\*
- ☐ Added pages to combined declaration and power of attorney for divisional, continuation,  
or continuation-in-part (CIP) application.  
Number of pages added \_\_\_\_ \*\*\*
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.  
\*\*\*

If no further pages form a part of this Declaration then end this Declaration with this page  
and check the following item.

☒ This declaration ends with this page.

*for October 1, 2002*

49



**COMBINED DECLARATION AND POWER OF ATTORNEY**

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**APPARATUS FOR THERMAL TREATMENT OF AN INTERVERTEBRAL DISC**

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NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 C.F.R. 1.67.

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RECEIVED  
NOV 19 2002

OFFICE OF PETITIONS

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DIRECT TELEPHONE CALLS TO:

*(Name and telephone number)*

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United States Surgical,  
a Division of Tyco Healthcare Group LP  
150 Glover Avenue  
Norwalk, Connecticut 06856

(203) 845-4603

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Full name of **sole or first inventor**: Philip Michael Finch

Inventor's signature \_\_\_\_\_

Date \_\_\_\_\_ Country of Citizenship Australia

Residence 18 Hardy Street

Post Office Address South Perth West Australia 6151

Full name of **second joint inventor** if any Eric R. Cosman

Inventor's signature 

Date Sept. 30, 2002 Country of Citizenship USA

Residence 872 Concord Avenue

Post Office Address Belmont, MA 02478

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NOV 19 2002  
OFFICE OF PETITIONS

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ADDED PAGE(S) WHICH FORM A PART OF THIS DECLARATION**

- ☐ Signature for subsequent joint inventors.  
Number of pages added \_\_\_\_.
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor.  
Number of pages added \_\_\_\_.
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. §1.47.  
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Number of pages added \_\_\_\_.

\*\*\*

- ☐ Authorization of attorney(s) to accept and follow instructions from representative.

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